

JUL 13 2010

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 09-90211

**ORDER**

**KOZINSKI**, Chief Judge:

Complainant alleges that the district judge who dismissed his civil case committed various substantive and procedural errors. These charges relate directly to the merits of the judge's rulings and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B). A misconduct complaint is not the proper vehicle for challenging the merits of a judge's rulings. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant also alleges that the judge "has a policy that shows partiality towards the Lenders/Banks" and against homeowners. But complainant hasn't provided any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support these allegations. See In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009). Adverse rulings are not proof of bias or favoritism. In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. Jud. Council 2009). Complainant

seems to offer as proof of bias his observation that the judge “has ruled against the homeowner ninety-nine percent (99%) of the time.” But a 99 to 1 disparity—even if complainant’s supposed observation could be taken at face value—doesn’t mean anything without some indication of whether the rejected claims have merit.

Federal judges grant only 1 percent of habeas petitions filed by state prisoners, see Anup Malani, Habeas Settlements, 92 Va. L. Rev. 1, 65 n.191 (2006), but this low success rate proves only that habeas relief is hard to get, not that judges are biased against prisoners. Because there is no evidence of misconduct, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Finally, complainant accuses the judge of ruling “as an OLIGARCHY,” but that is hardly indicative of misconduct. A courtroom is not a democracy; the judge must, perforce, have the final word.

Complainant’s requests to set aside the judge’s order and to require the bank to republish the notice of sale aren’t cognizable under the misconduct complaint procedure. See Judicial-Conduct Rule 3(h); In re Charge of Judicial Misconduct, 567 F.3d 429, 431 (9th Cir. Jud. Council 2009).

**DISMISSED.**